

REMARKS

Rejection Under 35 USC 103(a)

Claims 1-16 and 19-34 have been rejected under 35 USC 103(a) as being unpatentable over U.S. Patent Application No. 2004/0204740 to Weiser ("Weiser") in view of US Patent No. 2,818,865 to Jacoby, Jr. ("Jacoby") (Because Claims 2-16 and 20-34 are dependent upon and include all limitations of Independent Claims 1 and 19, respectively, this response will address the rejection as it pertains to Independent Claims 1 and 19.) More specifically, language on page 3 of the instant Office action states that Weiser teaches every element of independent claims 1 and 19 except for narrowed bridging portions:

Weiser is silent with regards to the average width of the bridging portions being less than that of the attached portions. Instead, Weiser discloses bridging portions having the same width as the attached portions.

The Office Action proceeds with a statement that Jacoby cures this deficiency:

However, providing a wound closure device with bridging portions having an average width [less] than an attached portion is well known in the art, as shown in Fig. 1 and 3 of Jacoby. Thus, Jacoby discloses a bridging/attached portion arrangement that is an equivalent structure known in the art.

For the following reasons, Applicant respectfully disagrees that the proposed combination of references teaches or suggests the present invention:

First, Applicant agrees that Weiser fails to disclose or suggest bridging portions being less than the average width of the attached portions such that the one or more first and second connecting members are sufficiently spaced-apart to facilitate fine adjustment of the first component relative to the second component for substantially parallel alignment of the edge of the first component with the edge of the second component during closure of the wound or incision. Neither the specification nor the claims of Weiser teach this limitation. The Figures of Weiser teach away from this limitation by displaying bridging portions having widths equal to or smaller than the spacing between connecting members.

The Specification further explains at paragraph [0017] that the difference in width of the bridging portion of the present invention relative to the width of the attached portion affords advantages over prior art devices in which the width of connecting members was substantially constant along their lengths. The device of Weiser presents connecting members having constant widths along their lengths. As described in Specification paragraph [0014], achieving a more secure attachment in the single-width connector device of Weiser would require an increased number of connecting members that would be placed as close together as possible, thereby severely limiting adjustability. Weiser fails to teach or suggest any method for simultaneously providing a secure attachment and enabling fine adjustability.

Jacoby fails to cure the deficiencies of Weiser. Specifically, Jacoby fails to teach a device enabling fine adjustment during wound closure. In contrast, Applicant's independent claims 1 and 19 recite this key feature of Applicant's device:

"...the average width of the bridging portions being less than the average width of the attached portions such that the one or more first and second connecting members are *sufficiently spaced-apart to facilitate fine adjustment of the first component relative to the second component*"

The elongated connectors of Applicant's device are sufficiently spaced apart to facilitate fine adjustment of the flat flexible components.

In contrast to Applicant's device, the device of Jacoby restricts fine adjustment. Jacoby teaches a key-hole closure device. Jacoby recites the following description of that device at Column 1, lines 30-54:

Referring to Fig. 2, the tape assembly comprises a strap 10 having a slot 11 in the central portion thereof which is approximately one-third the width of the strip and twice the length of its end portions 12. The second member of the assembly comprises a strip 13 of the same length as the strip 10 and formed with similar end portions 14.

Jacoby fails to teach or suggest that *the one or more first and second elongated connectors are sufficiently spaced apart to facilitate fine adjustment of the first flat flexible component relative to the second flat flexible component for substantially parallel alignment of the edge of the first flat flexible component with the edge of the second flat flexible component during closure of the wound or incision*. The fine adjustment characteristic of the present invention solves a critical

problem left unaddressed by Jacoby: Wounds typically take an almond shape (surface view), which shape requires a closure device to somehow move the center portion of the wound more than the ends. Unlike Applicant's device, Jacoby's device cannot close the different gap widths along the same wound. Jacoby's device therefore limits any flexibility for closing the wound edges to varying degrees as would be required by a varying wound gap. The Jacoby device, at best, allows only for a straight pull/tension closure. It cannot provide any fine lateral adjustment/adjustment parallel to the wound. Applicant's specification describes this feature of the present invention, and Applicant's independent claims 1 and 19 recite this feature of having sufficiently spaced apart elongated connectors for facilitating fine adjustment of the flat flexible components.

Jacoby is directed to a key-hole design bandage which is well known to one skilled in the art. FIG. 3 of Jacoby shows a first strip 10 having an opening 11 and an end 12 and a second strip 13 having a central section 15 and an end 14. In use end 14 of the second strip 10 is inserted from underneath and into the opening 11 of the first strip 10, such that the end 14 overlaps the top portion of end 12 of the first strip 10. The central section 15 of the second strip 13 completely fills the opening 11 of the first strip 10, leaving no spacing therebetween during application of the closure device for fine adjustment, let alone any lateral adjustment, of the unattached end 14 of the second strip 13 relative to the attached end 12 of first strip 10. Jacoby, in fact, claims that the width of the opening 11 is exactly "equal to the width of the narrow portion of the first strip..." (Please see lines 7-8 of the single claim.) That precludes any spacing, let alone "sufficient spacing," for making fine adjustments of the first and second flat flexible components relative to one another.

Applicant submits that the proposed combination of references fails to disclose or suggest the combination of features recited in independent claim 1 and Independent claim 19. Because claims 2-18 and 20-36 depend respectively from the independent claims 1 and Claim 19, Applicant further submits that the proposed combination of references fails to disclose or suggest the combination of features recited in those dependent claims. Accordingly, Applicant respectfully requests withdrawal of the above-noted rejection under 35 USC 103(a).

Dependent claims 17 and 35 are rejected under 35 USC 103(a) as being unpatentable over Weiser in view Jacoby and further in view of US Patent No. 5,263,970 to Preller ("Preller"). Dependent claims 18 and 36 are rejected under 35 USC 103(a) as being unpatentable over

Weiser in view of Jacoby and further in view of US Patent No. 5,979,450 to Baker ("Baker"). Applicant respectfully requests withdrawal of the present rejections. As discussed above, claims 17 and 18 and claims 35 and 36 respectively depend from Independent Claims 1 and 19, which Applicant respectfully submits are in condition for allowance. Because claims 17, 18, 35 and 36 depend from independent claims that are in condition for allowance, those dependent claims, which include all limitations of allowable independent claims, are also in condition for allowance.

Double Patenting Rejection

Claims 19-36 have been provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over copending Application No. 10/626785. In response to this rejection, Applicant has prepared and submitted concurrently an executed Terminal Disclaimer. Applicant respectfully submits that filing this document serves to obviate the grounds of rejection. Applicant therefore requests reconsideration and withdrawal of the present rejection.

Claims 1-36 have been provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over copending Application No. 10/625937. In response to this rejection, Applicant has prepared and submitted concurrently an executed Terminal Disclaimer. Applicant respectfully submits that filing this document serves to obviate the grounds of rejection. Applicant therefore requests reconsideration and withdrawal of the present rejection.

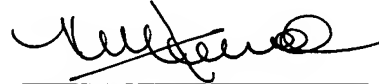
Claims 1-36 have been provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over copending Application No. 10/626040. In response to this rejection, Applicant has prepared and submitted concurrently an executed Terminal Disclaimer. Applicant respectfully submits that filing this document serves to obviate the grounds of rejection. Applicant therefore requests reconsideration and withdrawal of the present rejection.

Claims 1-36 have been provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over copending Application No. 10/625936. In response to this rejection, Applicant has prepared and submitted concurrently an executed Terminal Disclaimer. Applicant respectfully submits that filing this document serves to obviate the grounds of rejection. Applicant therefore requests reconsideration and withdrawal of the present rejection.

Summary

In light of the above amendment, consideration of the subject patent application is respectfully requested. Any deficiency or overpayment should be charged or credited to Deposit Account No. 50-4514.

Respectfully submitted,



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